The indication that claims 4-6 and 11-13 contain allowable subject matter is acknowledge, with appreciation. See, page 4 of the Office Action dated December 10, 2001 (Paper No. 9).

Attached is a Terminal Disclaimer, to obviate the provisional rejection of claims 1-37 over claims 1-46 of Application No. 09/848,237. The attached Terminal Disclaimer and fee are being filed to advance prosecution and without prejudice. Withdrawal of the provisional obviousness-type double patenting rejection is requested.

To the extent not obviated by the above amendments, the Section 102 rejection of claims 1-3, 8-10, 15-22, 28-34 and 37 over Ohno (EP 0751170) is traversed. Reconsideration and withdrawal of the rejection are requested in view of he following comments.

The presently claims invention, such as is recited in claim 1, relates to a method of gelling a cosmetic composition comprising adding to a cosmetic composition, as a gelling agent, at least one linear or cyclic polyorganosiloxane which comprises at least two organosiloxy units and at least two side groups or end groups, each of the groups being capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula :

$R_aR'_bSiO_{(4-a-b)/2}$

in which :

R is a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

R' is a group capable of forming at least one hydrogen group,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3,

the said group R' being selected from the group consisting of :

(a) a group derived from an unprotected or partially protected amino acid, and

(b) a carboxylic acid, an amine or a phenol group of formula :

$-X-(Y)_n-Z$

in which :

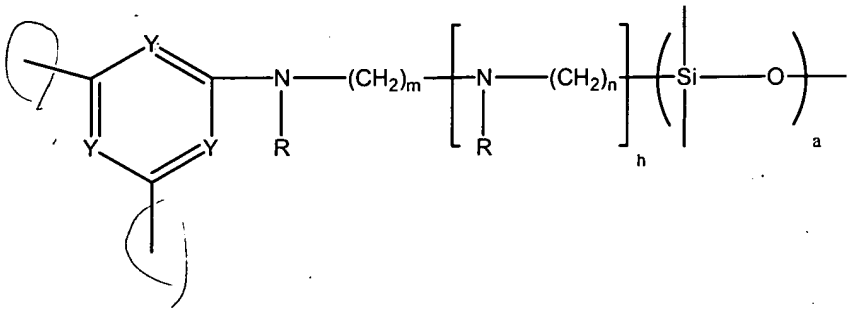
X is a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more heteroatoms in the chain ;

Y is a monocyclic or polycyclic, divalent unsaturated hydrocarbon group or a divalent unsaturated heterocyclic group, said polycyclic or heterocyclic group optionally comprising up to 4 fused rings,

n is an integer ranging from 1 to 4, and

Z is a –COOH or -OH group, or a primary, secondary or tertiary amine group.

Ohno et al (EP 0 751 170) describes silicones in which triazine compounds or pyrimidine compounds are chemically bound to amino groups of amino-modified silicone derivatives, including derivatives in which triazine or pyrimidine is bound to silicone oil. They can be represented by the following general formula :



wherein :

each R, which may be the same or different, represents hydrogen or a linear, branched-chain, or cyclic hydrocarbon group of 1 to 8 carbon atoms,

m and n each represent integers from 1 to 6 ;

h represents an integer from 0 to 6 ;

"a" represents an integer from 1 to 400 ; and

at least two of Y are nitrogen, the remainder is carbon.

These silicones can gel silicone oil and/or liquid oil or can increase the viscosity thereof stably and homogeneously (page 2, lines 41-43 and page 16, lines 48-49).

This document does not describe silicone containing end or side groups as described in the presently claimed invention. As a matter of fact, Y in the formula of the present invention, which can be compared to triazine or pyrimidine group, is a

monocyclic or polycyclic unsaturated hydrocarbon group and not a heterocyclic unsaturated group.

Furthermore, when Y is a heterocyclic group, the heterocycle bears one substituant Z which can be a –COOH or -OH group, or a primary, secondary or tertiary amine group. Substituant Z on the heterocycle is not described in Ohno *et al.*

Consequently, the polyorganosiloxanes as recited, for example, in claim 1, have a structure different from that of gelling agent as described in Ohno *et al.*

Therefore, the method of gelling a cosmetic composition using as a gelling agent, a silicone as defined in claim 1, is not anticipated by Ohno *et al.*

As for the rejection of claim 8, for example, the applicant notes that claim 8 provides a cosmetic composition containing, in a cosmetically acceptable medium, at least one linear or cyclic polyorganosiloxane as above-defined in claim 1.

While Ohno *et al* may disclose cosmetic composition containing silicones, in which triazine compounds or pyrimidine compounds are chemically bound to amino groups of amino-modified silicone derivatives, such o not anticipate the presently claimed invention. Examples of cosmetics are foundations, antiperspirants sticks, mascara, lip sticks and lip cream (page 15, lines 9-12).

Ohno *et al.* does not describe cosmetic compositions containing silicone as described in the presently claimed invention. Specifically, Y in the formula of the presently claimed invention, for example, which can be compared to triazine or pyrimidine group, is a monocyclic or polycyclic unsaturated hydrocarbon group and not a heterocyclic unsaturated group.

Furthermore, when Y is a heterocyclic group, the heterocycle bears one substituant Z which can be a –COOH or -OH group, or a primary, secondary or tertiary amine group. Z on the heterocycle is not described in Ohno *et al.*

Consequently, the polyorganosiloxanes as described in claim 8, for example, have a structure different from that of gelling agent as described in Ohno *et al.*

Therefore, the cosmetic composition comprising a silicone as defined in claim 8, for example, is not anticipated by Ohno et al.

Withdrawal of the Section 102 rejection of claims 1-3, 8-10, 15-22, 28-34 and 37 over Ohno is requested.

To the extent not obviated by the above amendments, the Section 103 rejection of claims 23-27 and 35-36 over Ohno in view of Mellul (U.S. Patent No. 5,738,841) is traversed. Reconsideration and withdrawal of the Section 103 rejection are requested in view of the above and following distinguishing comments.

Ohno *et al* describe silicones which are used in liquid oil or silicone oil in order to obtain compositions extending from gel-like compositions to viscous materials (page 13, lines 23-25). The silicones of this document can gel silicone oil and/or liquid oil or can increase the viscosity thereof stably and homogeneously (page 2, lines 41-43 and page 16, lines 48-49).

These silicones are compounds in which triazine compounds or pyrimidine compounds are chemically bound to amino groups of amino-modified silicone derivatives. Consequently, this document describes specific end and/or side groups having at least two nitrogen atom-containing unsaturated heterocyclic structure which is bound to a silicon atom via a nitrogen-containing alkylene group (-NR-$(CH_2)_m$-[NR-$(CH_2)_n]_h$-).

The Applicant claims a method of gelling a cosmetic composition, using as a gelling agent, at least one poyorganosiloxane having specific end and/or side groups as described in, for example, claim 1. A main difference between the presently claimed invention and Ohno *et* al is the recited R' group of the invention, as R' is chosen from groups (a) and (b) in order to obtain gelling agent, such as is defined in claim 1.

Ohno *et al* does not teach or suggest modification of the structure of the end and/or side groups or the use the resulting silicone to gel a cosmetic composition.

The same arguments apply to a cosmetic composition of the pending claim 8.

Mellul *et al* fails to cure these deficiencies of Ohno. Specifically, Mellul *et al* describe cosmetic compositions comprising at least one silicone-containing compound and octyldodecyl neopentanoate as a compatibilizing agent, and optionally hydrocarbons.

Mellul *et al* have searched for improving the compatibility between silicones and hydrocarbons and they have found that octyldodecyl neopentanoate functions as

a compatibilizing agent. There is no indication nor suggestion in this document to introduce silicones, such as are recited in claim 1, for gelling a cosmetic composition.

There was thus no suggestion in the cited art for one of ordinary skill in the art to combine Ohno *et al* relating to a gelling agent, with Mellul *et al*, relating to the improvement of the compatibility between silicones and hydrocarbons, to make the presently claimed invention.

Withdrawal of the Section 103 rejection is requested.

In view of the above and attached, the claims are submitted to be in condition for allowance and a Notice to that effect is requested.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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MARKED-UP COPY OF AMENDED CLAIMS

IN THE CLAIMS:

Amend the claims as follows:

1. (Twice Amended) A method of gelling a cosmetic composition comprising adding to a cosmetic composition, as a gelling agent, at least one linear or cyclic polyorganosiloxane which comprises at least two organosiloxy units and at least two side groups or end groups, each of said groups being capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:

$$R_a R'_b SiO_{(4-a-b)/2}$$

in which:

R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3, the said group R' being selected from the group consisting of:

(a) a group derived from an unprotected or partially protected amino acid, and

(b) a carboxylic acid, an amine or a phenol group of formula:

$$-X-(Y)_n-Z$$

in which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group or a divalent unsaturated heterocyclic group, said polycyclic or heterocyclic group optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and

Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group[, the nitrogen atom of which optionally forms part of a heterocyclic group Y].

8. (Twice Amended) Cosmetic composition comprising, in a cosmetically acceptable medium, at least one linear or cyclic polyorganosiloxane, which comprises at least two organosiloxy units and at least two side groups or end groups which are each capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:

$$R_a R'_b SiO_{(4-a-b)/2}$$

in which:

R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3,

the said group R' being selected from the group consisting of:

(a) a group derived from an unprotected or a partially protected amino acid, and

(b) a carboxylic acid, an amine or a phenol group of formula:

$$-X-(Y)_n-Z$$

in which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group or a divalent unsaturated heterocyclic group, said polycyclic or heterocyclic groups optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group[, the nitrogen atom of which optionally forms part of the heterocyclic group Y].